

2007 HHS Appropriations Subcommittee

Good morning Chairwoman Edith Clark and Appropriations Subcommittee members.

My name is Doug Amsden.

I introduce myself to you as an unnecessarily dependent Traumatic Brain Injured (TBI) and physical disabled consumer who lives in HD 55.

I am a proponent of HD 55 Rep. Michael Lange sponsoring a legislative bill to amend related economic and technology resource provisions in Montana vocational rehabilitation program rules on agency assistance to market disabled consumer proposed business production objectives.

With the credit also to my certified Peer Mentor status in the Living Independently for Today and Tomorrow program in Billings, MT and my work to license the management of significant literal principles to raise similar disabled clients economic living standards.

By the interaction with similar disabled consumers, I ask this subcommittee for legislation to fund a commercial business & industry portfolio on science and information-technology tools issued in the restoration on a disabled applicant's right to economic freedom.

While upon receiving a 1996 President's Committee Chairman Justin Dart Jr. endorsement on market incentives "in the improvement of the system of services", I ask this appropriations subcommittee for bipartisan support to amend funding provisions to reform bureaucratic program operations in disabled consumer employment assistance.

Within this diverse business transaction concept on ecological investment goals, too, I ask this appropriations subcommittee to amend funding commercial organization research and economic development provisions in a certificate on renewable energy and white collar/blue collar office by-product for environmental preservation.

cont.:

In the amendment of disabled consumer economic liberties on Montana constitution freedom of expression rights, too.

I ask this appropriations subcommittee to amend legislature regulation funding provisions with oversight in a vocational rehabilitation agents' assessment service issued in reports on disabled consumer industry employment strengths, interests, goals, and limitation within aptitude tests, a diverse business plan, and community endorsement by a reputable government funded entity.

Within the before mentioned certificate on alternative education incentives issued on disabled consumer economic independence rights, too, I complain that my economic poverty status and then having to suffer with the undue hardship of post traumatic stress is related to educational program disincentives issued by our current state structure.

While on this certificate to market grassroots resource provisions, too, I ask this Appropriations Subcommittee to amend severe audit provisions on Montana vocational rehabilitation program procedure rules in defense of a disabled consumers substantial Due Process of Law rights.

I, therefore, request legislation to regulate the administration agents' discourse with assessment procedures on managing disabled consumer individual liberties.

In addition, I complain that the assigned vocational rehabilitation program agents' behavior on my behalf was both aggressive and further dysfunctional when I request the assistance to commercialize rehabilitation program structure objectives upon (1) SBA program endorsement, (2) an official rubberstamp, (3) a Certificate on Intellectual Property, and (4) Public Law on economic and technology-related resource provisions.

In retrospect, too, the corresponding government agents' authority neglected to process this publication on the reform of procedures in restoration of American culture education, health, and welfare rights.

cont.:

While upon the establishment of such procedural remedies for civilian justice and disabled consumer compensation, I further ask this appropriations subcommittee for a bipartisan vote to amend agency transparency rules on procedures in state Due Process of Laws.

While with consensus issues on bureaucratic culture reforms, too, I add that neither the voice of distinguished advocates on my behalf were credit worthy to dissolve either these informal/formal official communications barriers upon disabled consumer reprisal.

So, with the pursuit on a disabled consumers right in culture justice, after the 2005 Fair Hearing process, I filed a civil complaint to appeal this discrimination on rights to the district court without being given legal assistance from either the Client Assistance Program, a Pro Bono lawyer or a court appointed lawyer.

By this relevance I also ask this appropriations subcommittee for a bipartisan vote to amend funding severe discipline provisions upon the Montana Advocacy Program and its Executive office affiliate for having waived its legal service to appeal economic compensation in disabled consumer individual damages and government agency concessions in law on culture Montana Constitution, Proprietary, and civil rights.

I am further left to believe that the Montana Attorney Generals office defense in Montana agency statute-of-limitations rules helped to overrule my court appeal for education benefits.

And with due compensation provided on this official breach of communications.

Upon this conclusion, I ask this appropriations subcommittee for a bipartisan vote to amend funding corporate license provisions on this 21st Century rehabilitation information-age and remedial program by-product principles issued to commercialize your disabled constituent's diverse production interests on plastics industry manufacturing.

I reserve the balance of my time.

Sincerely yours,
Doug Amsden
Doug Amsden
769 Fallow Ln., #322
Billings, MT 59102
Email: notneon@imt.net

Encl: 14

**cc: Rep. Michael Lange
etc.**

CERTIFICATE OF COPYRIGHT REGISTRATION

UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

TX 2739303



OFFICIAL SEAL

This certificate, issued under the seal of the Copyright Office in accordance with the provisions of section 410(a) of title 17, United States Code, attests that copyright registration has been made for the work identified below. The information in this certificate has been made a part of the Copyright Office records.

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United States of AmericaTXU
EFFECTIVE DATE OF REGISTRATION

DEC 29 1989

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1

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TITLE OF THIS WORK ▼

Not Neon

PREVIOUS OR ALTERNATIVE TITLES ▼

N/A

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

N/A

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2

NAME OF AUTHOR ▼

Douglas B. Amsden

Was this contribution to the work a "work made for hire"? AUTHOR'S NATIONALITY OR DOMICILE

 Yes

Name of Country

 No

U.S.A.

OR Citizen of ▶

Domiciled in ▶ *Billings, Mont.*DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

6/18/60 -

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

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If the answer to either of these questions "Yes," see detailed instructions.

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Under the law, the author of a work made for hire is generally the employer, not the employee.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

Proposal for Reform of Montana Department of Social and Rehabilitation Services

NAME OF AUTHOR ▼

SERVICES

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

6/18/60

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Pseudonymous? Yes No

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NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

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 Yes

Name of Country

 No

Citizen of ▶

OR Domiciled in ▶

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1989

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2.▼

*Douglas Garrett Amsden
760 Fallow Lane #322
Billings, MT 59102*

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information now ▶ 12 Day ▶ 14 Year ▶ 1989

ONLY if this work has been published. U.S.A. ▶

APPLICATION RECEIVED
DEC 20 1989

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED
DEC 20 1989

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OFFICE USE ONLYMORE ON BACK ▶ • Complete all applicable spaces (numbers 5-11), on the reverse side of this page.
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Page 1 of 2 pages

TX 2 739 309

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JN

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COPYRIGHT
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Yes

 DEPOSIT ACCOUNT

FUND USED

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PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

- Yes No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼
- This is the first published edition of a work previously registered in unpublished form
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If your answer is "Yes," give Previous Registration Number ▼

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a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

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A signature on this form at space 10, and a check in one of the boxes here in space 8, constitutes a non-exclusive grant of permission to the Library of Congress to reproduce and distribute solely for the blind and physically handicapped and under the conditions and limitations prescribed by the regulations of the Copyright Office: (1) copies of the work identified in space 1 of this application in Braille (or similar tactile symbols); or (2) phonorecords embodying a fixation of a reading of that work; or (3) both.

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Be sure to
give your
daytime pho
number**CORRESPONDENCE** Give name and address to which correspondence about this application should be sent Name Address Apt City State Zip ▼

Douglas G. Amsden

7690 Fallow Lane #322

Billings, Mont. 59102

Area Code & Telephone Number ▼

CERTIFICATION* I, the undersigned, hereby certify that I am the

Check one ▶

 author other copyright claimant owner of exclusive right(s) authorized agent of

Name of author or other copyright claimant or owner of exclusive rights ▼

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

Typed or printed name and date ▼ If this is a published work, this date must be the same as or later than the date of publication given in space 3.

Douglas Garrett Amsden

date ▶ 12/18/89



Handwritten signature (X) ▼

Douglas G. Amsden

**MAIL
CERTIFI
CATE TO**

Name ▼	▼
Douglas G. Amsden	
Number Street Apartment Number ▼	▼
769 Fallow Lane #322	
City State ZIP ▼	▼
Billings, Mont. 59102	

YOU MUST

- Complete all necessary spaces
- Sign your application in space 10

**SEND ALL 3 ELEMENTS
IN THE SAME PACKAGE:**

1. Application form
2. Non-refundable \$10 filing fee in check or money order payable to Register of Copyrights
3. Deposit material

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Library of Congress
Washington, D.C. 20559

* 17 U.S.C. § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409 or in any written statement filed in connection with the application shall be fined not more than \$2,500.

NOT·NEON

The purpose for registering this copyright with relationship to the Department of Social and Rehabilitation Services is to authorize the approval of and incorporate the formal adoption to communications (information, etc.) for both "vocational follow-up"¹ and the placement procedures "to provide the disabled person (citizen) with an opportunity to be useful and self-sustaining in our society."² Because of the various literary characteristics for word differentiation or meaning, an Executive Order, too, shall conform with standards of this endorsement which is forth-coming to individualize and fortify the rehabilitation program policy. An application of word knowledge that is received for follow-up proceedings shall then become the single most detailed article to providing livelihood.

The basis for this property will provide and certify the communications application as the founding principal when providing self-sufficiency. This application process to services would include and not be limited to, the cross-reference of both the information that is combined within a professionals' summary with the screening of personalized interests or occupational talents and skills

¹Thomas E. Williamson-Kirkland, M.D., "Discharge Summary: Disposition," (April-May 1981), p. 5.

²"Vocational Rehabilitation Services," Vocational Rehabilitation in Montana (Washington, D.C.: Department of Social and Rehabilitation Services, Oct. 1979), p. 1.

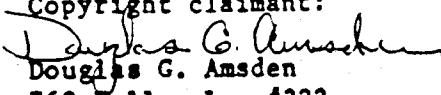
on file (i.e. that of which communication the person has invested to use for themselves).

Within this conscious programming necessity for the disabled person to rejoin society, in relationship, SB 2561--The Technology Related Assistance for Individuals with Disabilities Act of 1988--will provide that principle for assisting either the individual identity/communications crisis. With the scope for this communications used each person would be able to appropriately self-determine his own personal destiny.

To a cost-effective reason, this technology enhancement will provide greater means of progressing from dependency to self-sufficiency. "Policy is the thoughtful thread that connects what we want with what we are able to do."³ Not·Neon, seeks to provide that policy and to establish such rationale.

"Copyright", 1989 Not·Neon

Copyright claimant:


Douglas G. Amsden
769 Fallow Ln. #322
Billings, MT. 59102

³ASC Foundation, "Knowing the Score," A Strategy for Peace Through Strength; Coalition for Peace Through Strength, (Boston, Virginia: The American Security Council Foundation, 1984), p. 130.

BIBLIOGRAPHY

ASC Foundation, "Knowing the Score," A Strategy for Peace Through Strength; Coalition for Peace Through Strength.
Boston, Virginia: The American Security Council Foundation, 1974.

Vocational Rehabilitation Services, Vocational Rehabilitation in Montana. Washington, D.C. Department of Social and Rehabilitation Services: Oct. 1979.

Williamson-Kirkland, M.D., Thomas E. Discharge Summary:
Disposition. April-May 1981.

Not Neon Technologies
LLC

Executive Summary

Not Neon Technologies will be formed as a Limited Liability Company upon funding and prior to operations. The authorized business plan will enable some individuals with disabilities to earn income with sales of plastic manufactured products in Commerce. The economic objective goals on organization of the business are to provide:

- 1.) Deliver quality plastic product orders to consumer;
- 2.) Provide durable nameplate product for use with outside and/or inside business information conditions;
- 3.) Market to businesses from Billings, MT home base office;
- 4.) Enhance economic/technology-related mandate issued with program authorization on rehabilitation culture welfare to work incentive agenda.

Not Neon Technologies is intellectual property on authentic economic research and development (R&D) program issues with Y2K technology innovation provisions administered in marketing of plastic industry manufactured products. One to three year projected economic growth charts are enclosed. Income was collected with 1987 product sales. Thirteen years work experience is invested into this viable product differentiation program campaign strategy. The program is organized with the coalition of associates from within the Big Sky Economic Development Authority, Service Corp of Retired Executives (S.C.O.R.E.), Living Independently for Today and Tomorrow, Inc., Montana Vocational Rehabilitation Services, Montana Advocacy Program (MAP), and the Rural Institute on Disabilities with the University of Montana, Missoula, Montana. All commercial products will carry the Not Neon Technologies logo and Made In Montana symbol.

The certified business will grow with objective product sales in Billings, MT. and surrounding communities. Plastic industry production is ideal for the foreseen economic demands of the 21st century. I will work to establish systematic return-on-investment program management skill in plastic molding, recycling, and environmental conservation.

It is felt the Not Neon Technologies plastic industry program will grow to be a viable business entity in Billings, Montana.

Notneon Technologies
LLC

PERSONAL GOALS

Short term: My personal objective with Not Neon Technologies is to become profitable within a brief period of time by the promotion of four significant resources in business: material, human, financial, and informational within public discourse issues on behalf of hiring people with economic disabilities. While operating in all four seasons in Billings, MT. and contributing to the economic growth of our local community. I will work to establish these unique program production issues so that I, too, am given the legitimate chance based to better function as a responsible disabled consumer.

Long term: My long term goals are to take Not Neon Technologies from a small local sales operation to a minimum 10-15 person international corporate sales business (through use on the world-wide-web and marketing of this unique Made in Montana product). The technical transition management team will serve plastic production issues on behalf of Montana people with economic, e.g., educational, health and welfare, disabilities and promote the growth and development for raising economic living standard opportunities in Billings, MT.

MISSION

The Not Neon Technologies business will manage practical communications issues on plastic industry production. This twofold objective pro-labor and tax incentive program will modernize conservative economic policy administration issues. The Technology-Related program will issue commercialized rehabilitation enhancement values to rejoin the disabled person into the mainstream of society.

PRODUCT DESCRIPTION

Not Neon Technologies will provide economic growth by local product sales of select 1/8", 1/16", and 1/32 inch thick engraved plastic nameplates of various colors and sizes for doors, desks, office works, and the attire of office personnel. With compliance to the Americans with Disabilities Act (ADA), the product line will satisfy contemporary requests made to meet corporate America's commercial identification interests. All industry products are appropriately tagged with the Not Neon Technologies logo and Made in Montana symbol.

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PERSONNEL

The Not Neon Technologies organization will facilitate administration fees to perform the four basic program management functions: planning, organizing, leading and motivating, and controlling. I will delegate program leadership postions to the qualified applicant with gainful technical skills, conceptual skills, and interpersonal skills in the commission on state of Montana program transformation qualities. The preliminary screening of personnel by coalition members will allow me to hire skilled employees who complement my collective efforts in the building of this grassroots rehabilitation program agenda.

MARKETING

Billings, MT. has been experiencing an expanding economy and population growth for several years. As the tax base expands, capital outlay is issued to aggressively market the Not Neon Technologies program endeavor with advertisement to dramatize rehabilitation industry diversification. I will merchandise this unique commercial product with enthusiasm by competing for bids in Target Markets of government agencies, Nursing Homes, Schools, Hospitals, etc.

COMPETITION

Local competition for revenue, generated by the manufacturing of plastic nameplates in Billings MT. is established, but non-existent with emphasis on formal program hire the disabled implications or Made in Montana significance. I believe the Not Neon Technologies program enterprise will modify the founding Energy source administered in creation of rendering relevant resource production standards, tailored to meet the growing marketplace needs of the physical disabled and head injured person which is still unmet by local business.

PRICING

Costs associated with producing the engraved plastic nameplates, material purchase and technical equipment are as follows:

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EQUIPMENT

V-400 Laser Platform	\$25,700.00
Computer, Monitor, Printer, etc.	\$1500.00
Max Motion	\$2000.00
Corel Draw Software	\$200.00
Bits, etc	\$200.00
Prefloating Head	\$900.00
Etc.	\$350.00

Total \$ 30, 850.00

PRODUCT

Engraved 1" x 3" Plastic Name Badges:

With combined satin finish and beveled edge. The ordered letter size determines the number of letters engraved on each nameplate face. (Add \$2.00 for second line of letters.)

1" x 3" (Pinned Back) - \$5.00 for one line of letters
1" x 3" (Pocket Held) - \$6.00 for one line of letters

(1/4" letters - maximum of 17 letters per line)

Clear Cement: Bonds plastic or metal to any surface. Product is a non-solvent based adhesive.

Tube: \$4.50

BADGE HARDWARE (For the Attire of Personnel)

1" Safety Pin	\$.45 each
1and 1/2" Safety Pin	\$.50 each
Pocket Clipin	\$.50 each
Swivel Metal Bulldog Clip	\$.50 each
Super Clip	\$.50 each

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EQUIPMENT

Crafter	\$14,660.00
Computer, Monitor, Printer, etc.	\$2000.00
Max Motion	\$2000.00
Corel Draw Software	\$200.00
Bits, etc	\$200.00
Prefloating Head	\$900.00
Etc.	\$350.00

Total \$ 20,310.00

PRODUCT

Engraved 1" x 3" Plastic Name Badges:

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Pocket Clipin	\$.50 each
Swivel Metal Bulldog Clip	\$.50 each
Super Clip	\$.50 each

Not Neon Technologies
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WALL, DESK, DOOR, OR COUNTER SIGN: Satin finish. Please specify size with ordering. See chart below.

2" x 8" Sign - \$10.00 each for one line of lettering

2" x 10" Sign - \$13.00 each for 1 to 5 signs
- \$12.00 each for 6 to 12 signs
- \$11.00 each for 13 or more signs

Price includes one line of lettering. Add \$4.00 per sign for second line of lettering.

CHOOSE FROM THESE POPULAR COLOR COMBINATIONS

- 1) BLACK WITH WHITE LETTERS
- 2) WHITE WITH BLACK LETTERS
- 3) RED WITH WHITE LETTERS
- 4) WHITE WITH RED LETTERS
- 5) GREEN WITH WHITE LETTERS
- 6) BLUE WITH WHITE LETTERS
- 7) WHITE WITH FLUO LETTERS
- 8) YELLOW WITH BLACK LETTERS

Aluminum, Wood and Clear door, desk, & counter sign holder.

2" x 8" Clear	\$15.00
2" x 8" Smoked	\$15.00
2" x 8" Gold/ Silver Aluminum	\$15.00

----- AND -----

2" x 10" Solid Wood	\$19.00
2" x 10" Clear	\$16.00
2" x 10" Smoked	\$16.00
2" x 10" Gold/Silver Aluminum	\$16.00

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Wear Your State Proudly!

Montana shape name plates, has enough room for three lines of engraved letters. Please refer to the color chart:

Maximum letters per line:

3/8" lettering -- 12 letters
1/4" lettering -- 18 letters

\$13.00 each for lettering on 1 to 5 signs
\$12.00 each for lettering on 6 to 10 signs
\$11.00 each for lettering on 11 or more signs

Send me a copy of your logo. Specify sign size and quantity. A one time charge of \$8.00 for set-up.

MATERIAL PURCHASE

2 Plex - Surface	2 Ply - 1/16"	.....
Glossy & Matte		
\$37.00	2 Ply - 1/8"	.....
	3 Ply - 1/8"	.....
\$56.00		
\$58.00		
2 Plex - Subsurface Glossy & Matte	2 Ply - 1/16"	\$39.00
	2 Ply - 1/8"	.....
\$58.00		
2 Plex - Textured	2 Ply - 1/16"	.....
\$37.00	2 Ply - 1/8"	.....
\$50.00		
2 Plex - Metallics	2 Ply - 1/16"	.....
\$45.00	2 Ply - 1/8"
\$58.00		

Doug, Limited Liability Company, 2000

Not Neon Technologies
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----- ADA Compliance -----

Profile without Adhesive	1 Ply - 1/32"
\$25.00		
Profile with Adhesive	1 Ply - 1/32" \$30.00
Substrate	1 Ply - 1/16"	.....
\$30.00		
Substrate	1 Ply - 1/8"	.....
\$40.00		

PACKAGING & MAILING

Large Bubble Wrap (12" x 24") - \$2.00 Per Sheet
Small Bubble Wrap (12" x 24") - \$1.00 Per Sheet
Small Bubble Wrap (12" x 12") - \$.75 Per Sheet

Envelops:

8" x 10" \$1.00 each
10" x 14" 1.50 each

Cost Per Box Package:

10" x 3" x 2" \$ 1.00 each
10" x 4" x 3" \$1.25 each
10" x 4" x 4" \$1.50 each

Doug, Limited Liability Company, 2000

Not Neon Technologies
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TRENDS

Billings, MT. was awarded All American City in 1992-93. This city is one of Montana's most advantageous business locations related to incorporate efficient economic program management standards and engineer proficient organization resource administration issues for the independence status on behalf of disadvantaged people as myself. Combining the above economic trends upon growth of Billings, Montana in the past year, this certified program issuance seems clear that the timing is right. Perhaps the most promising trend in society to accept disabled people as a viable economic force in business is assessed with consensus in the Americans with Disabilities Act. By the character endorsement of standard ADA Title V: Miscellaneous provisions, I, hereby, authorize the discretionary agency issuance of applicable economic-technical resources with subsidy on Public Law 100-407 The Technology-Related Assistance For Individuals With Disabilities Act of 1988 to open doors of substantial Y2K program infrastructure investment opportunities where not so long ago there was none. I introduce this chief information technology program with the proprietary license to commercially manage both geographic oil and smokestack industry emission standards associated with plastic industry production and resource manufacturing. A rehabilitation culture production program transition philosophy established via elementary character classification values mandated to represent building the disabled individuals' physical state of Montana Freedom of Expression entitlement right. Political science principles in business appropriated by program authorization to coordinate redress of adverse welfare state government, labor, and management program administration policy appropriation issues on disabled public economic independence. With the association to comprehensive vocabulary and practical rehabilitation grammar skills in objective program planning instituted with this proactive Technology-Related employment incentive program, I will succeed, as this is a business environment that I really care about, it is part of my nature.

TECHNOLOGY-RELATED ASSISTANCE FOR
INDIVIDUALS WITH DISABILITIES ACT OF
1988

**Public Law 100-407
100th Congress**

An Act

Aug. 19, 1988
[S. 2561]

To establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION I. SHORT TITLE.

This Act may be cited as the "Technology-Related Assistance for Individuals With Disabilities Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress makes the following findings:

- (1) During the past decade, there have been major advances in modern technology. Technology is now a powerful force in the lives of most residents of the United States.
- (2) For all individuals, technology can provide important tools for making the performance of tasks quicker and easier.
- (3) For some individuals with disabilities, assistive technology is a necessity that enables them to engage in or perform many tasks. The provision of assistive technology devices and assistive technology services enables some individuals with disabilities to—

(A) have greater control over their own lives;

(B) participate in and contribute more fully to activities in their home, school, and work environments, and in their communities;

(C) interact to a greater extent with nondisabled individuals; and

(D) otherwise benefit from opportunities that are taken for granted by individuals who do not have disabilities.

(4) Although the development of assistive technology devices designed to assist individuals with disabilities is still in its early stages, there already exist a substantial number of assistive technology devices, including simple adaptations to existing equipment, that could significantly benefit, in all major life activities, individuals of all ages with disabilities. Such devices, including adaptations, could be used in programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, recreation, and other aspects of daily living.

(5) The use of assistive technology devices and services by individuals with disabilities can reduce the costs of the disabilities to society, individuals with disabilities, and families of individuals with disabilities by reducing expenditures associated with early intervention, education, rehabilitation, health care, transportation, telecommunication services, and other services required by individuals with disabilities.

(6) Many individuals with disabilities do not have access to the assistive technology devices and assistive technology serv-

(b) MODEL DELIVERY PROJECTS.—There are authorized to be appropriated for purposes of carrying out section 231(b)(1) \$1,500,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(c) PRIORITIES.—

(1) **MODEL DELIVERY PROJECTS.**—Notwithstanding any other provision of this Act, if amounts appropriated for purposes of carrying out this Act for the fiscal year 1989 equal or exceed \$6,000,000, the Secretary shall first make available, from such amounts, not less than \$500,000 for demonstration projects under section 231(b)(1).

(2) **OTHER TITLE II ACTIVITIES.**—(A) Of amounts appropriated under subsection (a) for the fiscal year 1989, the Secretary shall first make available not more than \$250,000 for purposes of carrying out part A.

(B) Subject to subparagraph (A), of amounts appropriated under subsection (a) for any fiscal year, the Secretary shall first make available, in order of priority—

- (i) not more than \$750,000 for purposes of carrying out section 212; and
- (ii) such sums as may be necessary for purposes of carrying out section 211.

Approved August 19, 1988.

Technology-Related Assistance for Individuals With Disabilities Act of 1988.
29 USC §2201
note.
29 USC §2201

LEGISLATIVE HISTORY—S. 2561 (H.R. 4904):

HOUSE REPORTS: No. 100-819 accompanying H.R. 4904 (Comm. on Education and Labor).

SENATE REPORTS: No. 100-438 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 2, considered and passed Senate.

Aug. 8, H.R. 4904 considered and passed House, proceedings vacated and S. 2561 passed in lieu.

- (E) increase the capacity of public and private entities to provide technology-related assistance, particularly assistive technology devices and assistive technology services, and to pay for the provision of assistive technology devices and assistive technology services;
- (F) increase coordination among State agencies and public and private entities that provide technology-related assistance, particularly assistive technology devices and assistive technology services; and
- (G) increase the probability that individuals of all ages with disabilities will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living.

(2) To facilitate—

- (A) the identification of Federal policies that facilitate payment for assistive technology devices and assistive technology services for individuals with disabilities;
 - (B) the identification of Federal policies that impede such payment; and
 - (C) the elimination of inappropriate barriers to such payment.
- (3) To enhance the ability of the Federal Government to provide the States with—
- (A) technical assistance, information, and training and public awareness programs relating to the provision of assistive technology devices and assistive technology services; and
 - (B) funding for model demonstration and innovation projects.

SEC. 3. DEFINITIONS.

For purposes of this Act:

- (1) ASSISTIVE TECHNOLOGY DEVICE.—The term “assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.
- (2) ASSISTIVE TECHNOLOGY SERVICE.—The term “assistive technology service” means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

- (A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual’s customary environment;
- (B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;
- (C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
- (D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

- implementation of consumer-responsive statewide programs of technology-related assistance to individuals with disabilities.
- (3) USES OF FUNDS.—Amounts made available for grants under paragraph (1) may be used by institutions of higher education to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.
- SEC. 222. PUBLIC AWARENESS PROJECTS.**
- (a) PROGRAM AUTHORIZED.—The Secretary shall make grants to, or enter into contracts with, nonprofit and for-profit entities to carry out national projects that recognize and build awareness of the importance and efficacy of assistive technology devices and assistive technology services for individuals of all ages with disabilities functioning in various settings of daily life.
- (b) USES OF FUNDS.—Amounts made available for grants and contracts under subsection (a) may be used to—
- (1) develop a national media campaign (including public service time slots on radio and television);
 - (2) convene national or regional conferences;
 - (3) prepare and disseminate information (including summaries, comparisons, analyses, and cost-benefit projections) concerning the efficacy of technology-related assistance;
 - (4) encourage others to hold national or regional conferences;
 - (5) develop and maintain recognition programs that are designed to promote public credit to entities that demonstrate an aggressive effort for a sustained time to provide or promote the use of technology-related assistance or the development of assistive technology devices; and
 - (6) other activities considered appropriate by the Secretary.
- SEC. 223. PRIORITIES.**

- (a) IN GENERAL.—Beginning in fiscal year 1991, the Secretary shall—
- (1) establish priorities for activities carried out with assistance under this part;
 - (2) publish such priorities in the Federal Register for the purpose of receiving public comment; and
 - (3) publish such priorities in the Federal Register in final form not later than the date on which the Secretary publishes grant announcements for grants made under this part.
- (b) EXPLANATION OF DETERMINATION OF PRIORITIES.—Concurrent with the publication required by subsection (a), the Secretary shall publish in the Federal Register an explanation of how the priorities were determined.

PART D—DEMONSTRATION AND INNOVATION PROJECTS**SEC. 231. PROGRAM AUTHORIZED.**

- (a) DEMONSTRATION AND INNOVATION PROJECTS.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, nonprofit and for-profit entities to pay all or part of the cost of establishing or operating demonstration and innovation

projects relating to technology-related assistance for individuals with disabilities.

(b) ELIGIBLE ACTIVITIES.—Amounts made available for purposes of carrying out this part may be used for the following activities:

(1) MODEL PROJECTS FOR DELIVERING ASSISTIVE TECHNOLOGY DEVICES AND SERVICES.—The establishment or operation of model projects for delivering assistive technology devices and assistive technology services to individuals of all ages with disabilities functioning in various environments and carrying out various life activities (including model systems described in section 101(c)(1) of title I).

(2) MODEL RESEARCH AND DEVELOPMENT PROJECTS.—The conduct of applied research and development projects, including projects designed to—

- (A) increase the availability of reliable and durable assistive technology devices that address unique, low-market demand, or complex technology-related needs for individuals with disabilities;
- (B) develop strategies and techniques that involve individuals with disabilities in assessing the performance characteristics of technology that is not designed specifically for individuals with disabilities and developing adaptations of such technology for individuals with disabilities;
- (C) assist in the transfer of technology that is not specifically designed for individuals with disabilities to uses appropriate for such individuals; and
- (D) facilitate effective and efficient technology transfer.

(3) INCOME-CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT.—Demonstration projects in accordance with regulations issued by the Secretary (which may include a requirement that the Secretary shall provide an amount equal to not more than 90 percent of the amount required for any such project) to examine the feasibility of a direct loan program that would provide loans—

- (A) to individuals with disabilities who require technology-related assistance in order to maintain a level of functioning or to achieve a greater level of functioning in any major life activity; or
- (B) to the families or employers of individuals with disabilities, on behalf of such individuals, for the purposes described in subparagraph (A).

(c) REPORT TO CONGRESS ON EXTENSION OF DIRECT LOAN PROGRAM.—The Secretary shall, based on the projects assisted under subsection (b)(3), report to Congress concerning the feasibility of operating a direct loan program of general applicability beginning after September 30, 1993.

ices that such individuals need to allow such individuals to function in society commensurate with their abilities. States do not have comprehensive programs for making available technology-related assistance to individuals with disabilities. There is a lack of—

- (A) resources to pay for such devices and services;
- (B) trained personnel to provide such devices and services and to assist individuals with disabilities to use such devices and services;
- (C) information about the potential of technology available to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(D) coordination among existing State human services programs, and among such programs and private agencies, particularly with respect to transitions between such programs and agencies; and

- (E) capacity of such programs to provide the necessary technology-related assistance.

(7) There are insufficient incentives for the commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of limited markets.

(8) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. Also, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) PURPOSES.—The purposes of this Act are as follows:

- (1) To provide financial assistance to the States to help each State to develop and implement a consumer-responsive statewide program of technology-related assistance for individuals of all ages with disabilities that is designed to—

- (A) increase awareness of the needs of individuals with disabilities for assistive technology devices and assistive technology services;
- (B) increase awareness of policies, practices, and procedures that facilitate or impede the availability or provision of assistive technology devices and assistive technology services;

- (C) increase the availability of and funding for the provision of assistive technology devices and assistive technology services for individuals with disabilities;
- (D) increase awareness and knowledge of the efficacy of assistive technology devices and assistive technology services among individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORITY.—There are authorized to be appropriated for purposes of carrying out this title (other than section 231(b)(1)) \$5,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

PART E—AUTHORIZATION OF APPROPRIATIONS

ongoing evaluation of the needs of such individuals for technology-related assistance, which may be based on existing data.

(2) IDENTIFICATION AND COORDINATION OF RESOURCES.—Identification and coordination of Federal and State policies, resources, and services relating to the provision of assistive technology devices and assistive technology services to individuals with disabilities, including entering into interagency agreements.

(3) PROVISION OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.—Provision of assistive technology devices and assistive technology services to individuals with disabilities and payment for the provision of assistive technology devices and assistive technology services.

(4) DISSEMINATION OF INFORMATION.—Dissemination of information relating to technology-related assistance and sources of funding for assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(5) TRAINING AND TECHNICAL ASSISTANCE.—Provision of training and technical assistance relating to assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) PUBLIC AWARENESS PROGRAM.—Conduct of a public awareness program focusing on the efficacy and availability of assistive technology devices and assistive technology services for individuals with disabilities.

(7) ASSISTANCE TO STATEWIDE AND COMMUNITY-BASED ORGANIZATIONS.—Provision of assistance to statewide and community-based organizations or systems that provide assistive technology services to individuals with disabilities.

(8) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—Support of the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector to facilitate the development and implementation of a statewide program of technology-related assistance for individuals with disabilities.

(9) QUALIFICATIONS OF STAFF.—Taking actions to develop standards, or where appropriate, apply existing standards to ensure the availability of qualified personnel.

(10) PROGRAM DATA.—Compilation and evaluation of appropriate data relating to the program.

(11) PROCEDURES FOR INVOLVEMENT OF CONCERNED INDIVIDUALS.—The establishment of procedures providing for the active involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals in the development and implementation of the program, and for the active involvement, to the maximum extent appropriate, of individuals with disabilities who use assistive technology devices and assistive technology services in decisions

(1) analyze the needs of States that are interested in developing and implementing consumer-responsive statewide programs of technology-related assistance;

(2) describe the types of information and program referral networks (including electronic networks) in existence or under development at the time of the study, including—

(A) the types of information and program referral incorporated into or provided by such networks;

(B) the cost of maintaining such networks;

(C) the types of services provided by such networks;

(D) the types and numbers of individuals served by such networks;

(E) the location of such networks and accessibility to other networks; and

(F) the feasibility and desirability of linking such networks, including proposed plans and an estimate of the cost of such a linkage;

(3) analyze the impediments to the exchange of information and the development and operation of such networks;

(4) describe the information that should be incorporated into a national information and program referral network to ensure that the network serves the entire United States, in particular addressing the gaps in existing networks and methods of filling such gaps using networks in existence or under development at the time of the study;

(5) describe the information systems from other fields of technology development that may be incorporated into a national information and program referral network on technology-related assistance;

(6) analyze the issues involved in operating a national information and program referral network;

(7) analyze operational alternatives including at least the advantages and disadvantages of—

(A) grant arrangements, contracting arrangements, or other funding mechanisms or arrangements, and the lengths of any such arrangements;

(B) various network configurations, including—

(i) regionally distributed;

(ii) focused on functional limitations;

(iii) age-focused;

(iv) expertise-centered; and

(v) other network configurations;

(C) costs associated with funding arrangements described in subparagraph (A) and network configurations described in subparagraph (B), and options for paying such costs, including the possible use of Federal funds, State funds, and other alternatives;

(D) mechanisms of payment for information and program referral services;

(E) mechanisms for ensuring that information systems remain current, have relevant and useful information, and provide information in a form that allows individuals with disabilities to make effective use of the information;

(F) forms of Federal oversight and independent evaluations that could be applied to a national information and program referral network;

(G) types of staffing expertise required for different options; and

(H) types of institutional oversight, such as governing boards and advisory panels; and

(9) a timetable for implementation of various network options.

29 USC § 2251.

Contractors.
Report.

SEC. 214. TIMETABLE FOR STUDY.

(a) AWARD OF CONTRACT.—The Secretary shall, before the end of the six-month period beginning on the date of the enactment of an Act providing appropriations to carry out the study required by this part, enter into any contract or cooperative agreement necessary for conducting such study.

(b) COMPLETION OR STUDY.—Any contract or agreement entered into under subsection (a) shall require the study to be completed and a report concerning such study to be submitted to the Secretary and to the appropriate committees of the Congress before the end of the 18-month period beginning on the date of the contract or agreement.

(c) IMPLEMENTATION OF RECOMMENDATIONS.—The Secretary, after allowing for public comment on the report submitted under subsection (b), shall take appropriate action based on the report before the end of the 6-month period following the date on which the Secretary receives the report.

PART C—TRAINING AND PUBLIC AWARENESS
PROJECTSContractors.
Report.

SEC. 221. TRAINING.

29 USC § 2251.

Contractors.

SEC. 221. TRAINING.

(a) TECHNOLOGY TRAINING.—
(1) GENERAL AUTHORITY.—The Secretary shall enter into contracts or cooperative agreements with appropriate nonprofit or for-profit entities for the purposes of—

- (A) conducting training sessions; and
- (B) developing, demonstrating, disseminating, and evaluating curricula, materials, and methods used to train individuals regarding the provision of technology-related assistance.

(2) ELIGIBLE ACTIVITIES.—Activities conducted under contracts or cooperative agreements entered into under paragraph (1) may address the training needs of individuals with disabilities, the families or representatives of individuals with disabilities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) TECHNOLOGY CAREERS.—

(1) GENERAL AUTHORITY.—The Secretary shall make grants to assist institutions of higher education to prepare personnel for careers relating to the provision of technology-related assistance to individuals with disabilities.

(2) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to the preparation of personnel who will provide technical assistance, administer programs, or prepare personnel necessary to support the development and

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(3) INDIVIDUAL WITH DISABILITIES.—The term “individual with disabilities” means any individual—

(A) who is considered to have a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides; and

(B) who is or would be enabled by assistive technology devices or assistive technology services to maintain a level of functioning or to achieve a greater level of functioning in any major life activity.

(4) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given such term in section 435(b) of the Higher Education Act of 1965, and includes community colleges receiving funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(5) SECRETARY.—The term “Secretary” means the Secretary of Education.

(6) STATE.—Except as otherwise provided, the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(7) TECHNOLOGY-RELATED ASSISTANCE.—The term “technology-related assistance” means functions performed and activities carried out under section 101 that accomplish the purposes described in section 2(b)(1).

(8) UNDERSERVED GROUP.—The term “underserved group” means any group of individuals with disabilities who, because of disability, place of residence, geographic location, age, race, sex, or socioeconomic status, have not historically sought, been eligible for, or received technology-related assistance.

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED.

(a) GRANTS TO STATES.—The Secretary of Education shall make grants to States in accordance with the provisions of this title to assist States to develop and implement consumer-responsive comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(b) FUNCTIONS OF PROGRAMS.—Any State that receives a grant under this title may accomplish the purposes described in section 2(b)(1) by carrying out any of the following functions:

- (1) IDENTIFICATION AND NEEDS ASSESSMENT.—Identification of individuals with disabilities (including individuals from underserved groups) who reside in the State and the conduct of an

29 USC

Loans.

(G) a description of—

(i) alternative State-financed systems of subsidies for the provision of assistive technology devices and assistive technology services, including—

(I) a loan system for assistive technology devices;

(II) a low-interest loan fund;

(III) a revolving fund;

(IV) a loan insurance program; and

(V) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices or the provision of assistive technology services; and

(ii) a description of the eligibility criteria for such a system;

(H) a description of the State's procurement policies and the extent to which such policies will ensure, to the extent practicable, that assistive technology devices purchased, leased, or otherwise acquired with assistance under a grant under this title are compatible with other technology devices, including technology devices designed primarily for use by individuals without disabilities, elderly individuals, or individuals with particular disabilities; and

(I) an inquiry into whether it is advantageous for either a State agency or a task force (composed of individuals representing the State and individuals representing the private sector) to study the practices of private insurance companies holding licenses within the State that offer health or disability insurance policies under which an individual may obtain reimbursement for—

(i) the purchase, lease, or other acquisition of assistive technology devices; or

(ii) the use of assistive technology services.

(3) SUPPORT GROUPS.—The State may encourage the creation or maintenance of statewide or community-based organizations or systems that assist individuals with disabilities to use assistive technology devices or assistive technology services, or support any existing organization or system that provides such assistance.

(4) PUBLIC AWARENESS PROGRAM.—The State may support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and assistive technology services for individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals, or may establish and support such a program if no such program exists. Such a program may include—

(A) the development and dissemination of information relating to—

(i) the nature of assistive technology devices and assistive technology services;

(ii) the appropriateness, cost, and availability of, and access to assistive technology devices and assistive technology services; and

- (2) to recommend amendments to this title that the Secretary considers necessary to assist States to fully accomplish the purposes of this title.
- (c) INFORMATION SYSTEM.—The Secretary shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, a qualitative and quantitative description of the impact of the program of grants to States authorized by this title on—
 - (1) the lives of individuals with disabilities, particularly with regard to the purposes described in section 2(a)(3);
 - (2) public agencies;
 - (3) fiscal resources committed to technology-related assistance for individuals with disabilities;
 - (4) community-based organizations; and
 - (5) employers.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—STUDY ON FINANCING OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 201. STUDY BY NATIONAL COUNCIL ON THE HANDICAPPED.

29 USC
(a) STUDY AND RECOMMENDATIONS.—The National Council on the Handicapped (hereafter in this part referred to as the “Council”), in addition to the duties of the Council described in section 401 of the Rehabilitation Act of 1973, shall conduct a study and make recommendations to the Congress and the President concerning—

- (1) Federal laws, regulations, procedures, and practices that facilitate or impede the ability of the States to develop and implement consumer-responsive statewide programs of technology-related assistance for individuals with disabilities;
- (2) Federal and State laws, regulations, procedures, and practices that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities;
- (3) policies, practices, and procedures of private entities (including insurers) that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities; and
- (4) alternative strategies for acquiring or paying for assistive technology devices and assistive technology services.

- (b) ADVISORY COMMITTEE.—The Council shall appoint an advisory committee in accordance with section 404(c) of the Rehabilitation Act of 1973 to assist the Council in carrying out the duties of the Council under this part. Such advisory committee shall be appointed from individuals from both the public and private sectors who have broad experience and expertise directly relevant to the issues to be studied by the Council under this part, and shall also include individuals with disabilities, families of individuals with disabilities,

and representatives of organizations representing individuals with disabilities.

(c) COOPERATION OF OTHER AGENCIES.—
(1) FEDERAL AGENCIES.—The heads of all Federal agencies shall, to the extent not prohibited by law, cooperate with the Council in carrying out the duties of the Council under this part.

(2) USE OF RESOURCES OF FEDERAL, STATE, AND LOCAL AGENCIES.—The Council may use in carrying out its duties under this part, with the consent of the agency involved, services, personnel, information, and facilities of other Federal, State, local, and private agencies, with or without reimbursement.

(d) REPORTS.—The Council shall submit to the President and to the appropriate committees of the Congress—
(1) such interim reports as the Council considers advisable; and

(2) not later than 18 months after the date of the enactment of an Act providing appropriations to carry out this part, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Council considers advisable.

PART B—NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK

SEC. 211. ESTABLISHMENT OF NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK.

Before the end of the 30-month period beginning on the date of the enactment of an Act providing appropriations to carry out this part, the Secretary shall—

(1) determine whether it is appropriate, based on the findings and recommendations of the study conducted under section 212, to establish and operate a national information and program referral network to assist States to develop and implement consumer-responsive statewide programs of technology-related assistance; and

(2) if the Secretary determines that establishment and operation of such a network is appropriate, enter into any contract or cooperative agreement necessary to establish and operate such a network, which may consist of information and program referral networks in existence or under development at the time of the study conducted under section 212.

SEC. 212. FEASIBILITY STUDY REQUIRED.

(a) IN GENERAL.—The Secretary shall conduct a study—
(1) to determine the feasibility and desirability of creating the network described in section 211; and

(2) to determine the appropriate structure for the organization and operation of such a network, if it is determined to be feasible and desirable.

(b) CONTRACT AUTHORITY.—In carrying out the study required by subsection (a), the Secretary may enter into a contract or cooperative agreement necessary to conduct the study.

SEC. 213. CONTENTS OF STUDY.

The study conducted under section 212 shall—

relating to such assistive technology devices and assistive technology services.

(12) OTHER FUNCTIONS.—Any other functions the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In carrying out the functions described in subsection (b), any State may use amounts made available to the State under a grant under this title for activities including the following:

(1) MODEL DELIVERY SYSTEMS.—The State may support model systems for the delivery of assistive technology devices and assistive technology services to individuals with disabilities that if successful could be replicated or made generally applicable. Any such system may include—

(A) the purchase, lease, or other acquisition of assistive technology devices and assistive technology services or payment for the provision of assistive technology devices and assistive technology services;

(B) the use of counselors, including peer counselors, to assist individuals with disabilities and the families of individuals with disabilities to obtain assistive technology devices and assistive technology services;

(C) the involvement of individuals with disabilities or, if appropriate, families or representatives of individuals with disabilities in decisions related to the provision of assistive technology devices and assistive technology services to individuals with disabilities; and

(D) the evaluation of the efficacy of the particular model delivery system involved.

(2) STATEWIDE NEEDS ASSESSMENT.—The State may conduct a statewide needs assessment, which may be based on existing data and may include—

(A) estimates of the numbers of individuals with disabilities within the State, categorized by residence, type and extent of disabilities, age, race, gender, and ethnicity;

(B) a description of efforts during the fiscal year ending before the date of the enactment of this Act to provide assistive technology devices and assistive technology services to individuals with disabilities within the State, including—

(i) the number of individuals with disabilities who received appropriate assistive technology devices and assistive technology services; and

(ii) a description of the devices and services provided; (C) the number of individuals with disabilities who are in need of assistive technology devices and assistive technology services, and a description of the devices and services needed;

(D) the cost of providing assistive technology devices and assistive technology services to all individuals with disabilities within the State who need such devices and services;

(E) a description of State and local public resources and private resources (including insurance) that are available to establish a statewide program of technology-related assistance for individuals with disabilities;

(F) the identification of State and Federal policies that facilitate or interfere with the operation of a statewide program of technology-related assistance;

activities necessary for developing, implementing, or evaluating the statewide program of technology-related assistance.

SEC. 102. DEVELOPMENT GRANTS.

(a) GENERAL AUTHORITY.—The Secretary shall award to States 3-year grants to assist States to develop and implement statewide programs of technology-related assistance for individuals with disabilities in accordance with the provisions of section 101.

(b) NUMBER OF GRANTS TO BE AWARDED.—From amounts appropriated under section 106, the Secretary shall award under this section, to the extent appropriate applications are submitted—

- (1) in the first fiscal year for which amounts are appropriated, not more than 10 grants on a competitive basis;
- (2) in the second fiscal year for which amounts are appropriated, not more than 20 grants on a competitive basis; and
- (3) in the third fiscal year for which amounts are appropriated, any number of grants on a competitive basis.

(c) AMOUNTS OF GRANTS.—

(1) GRANTS TO STATES.—From amounts appropriated under section 106, the Secretary shall pay to each State that receives a grant under this section—

(A) for each of the first 2 years of the grant period, an amount that is not less than \$500,000 and not more than \$1,000,000;

(B) for the third year of the grant period, an amount that is not less than \$500,000 and not more than \$1,500,000.

(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than \$150,000.

(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate the amounts described in paragraphs (1) and (2) on the basis of—

(A) amounts available for making grants under this section;

(B) the population of the State or territory concerned; and

(C) the types of activities proposed by the State relating to the development of a statewide program of technology-related assistance.

(4) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

(5) DEFINITIONS.—For purposes of this subsection:

(A) The term “State” does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(B) The term “territory” means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(3) activities planned to rectify such problems in the following year.

(b) SPECIFIC REQUIREMENTS FOR REPORTS WITH RESPECT TO EXTENSION GRANTS.—Each State that receives a development grant under section 102 may include, and each State that receives an extension grant under section 103 shall include in the report required by subsection (a) a description of—

- (1) the types of assistance provided under the grant and the effects of such assistance, especially with respect to individuals with disabilities;
- (2) the types of environments in which assistance was provided under the grant; and
- (3) how the information required by this subsection was derived.

SEC. 105. ADMINISTRATIVE PROVISIONS.

(a) REVIEW OF PARTICIPATING STATES.—

(1) IN GENERAL.—The Secretary shall establish a system to assess the extent to which States that receive grants pursuant to this title are making significant progress in achieving the purposes of this title.

(2) ON SITE VISITS.—(A) The Secretary shall conduct an onsite visit during the final year of each State's participation in the development grant program. Two-thirds of the onsite monitoring team in each case shall be qualified peer reviewers from other participating States.

(B)(i) Members of any onsite monitoring team who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States, but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, for individuals in the Government service traveling on official business.

(ii) Members of any onsite monitoring team who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of their duties as members of an onsite monitoring team. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(3) MINIMUM REQUIREMENTS.—At a minimum the visits shall allow the Secretary to determine the extent to which the State is making significant progress in developing a statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(4) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

(1) IN GENERAL.—Any State that fails to comply with the requirements of this title shall be subject to a corrective action plan.

(2) PENALTIES.—A State that fails to comply with the requirements of this title may be subject to penalties such as—

(A) partial or complete fund termination;

(B) ineligibility to participate in the grant program in the following year; or

(C) reduction in funding for the following year.

(3) APPEALS PROCEDURES.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this title as the result of an onsite visit or failure to supply information required under subsection (a)(4).

(c) EFFECT ON OTHER ASSISTANCE.—Nothing in this title shall be construed to permit the State or any Federal agency to reduce medical or other assistance available or to alter eligibility under—

(1) title II, V, XVI, XVIII, XIX, or XX of the Social Security Act;

(2) the Education of the Handicapped Act;

(3) the Rehabilitation Act of 1973; or

(4) laws relating to veterans' benefits.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title \$9,000,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year ending before October 1, 1993.

(b) RESERVATION.—

(1) PROVISION OF INFORMATION.—The Secretary shall reserve 1 percent of funds appropriated in any fiscal year under subsection (a), or \$500,000, whichever is greater, for the purpose of providing States with information and technical assistance with respect to the development and implementation of consumer-responsive statewide programs of technology-related assistance.

(2) ONSITE VISITS.—The Secretary may reserve from amounts appropriated in any fiscal year under subsection (a) such sums as the Secretary considers necessary for the purposes of conducting onsite visits as required by section 105(a)(2).

SEC. 107. EVALUATION.

(a) EVALUATION.—

(1) IN GENERAL.—The Secretary, directly or by contract, shall conduct a national evaluation of the program of grants to States authorized by this title.

(2) REPORT TO CONGRESS.—The Secretary shall report to the Congress on the results of the evaluation conducted as required by paragraph (1) not later than October 1, 1992.

(b) PURPOSE.—The purpose of the evaluation required by subsection (a) shall be—

(1) to assess, through representative samples, the status and effects of State efforts to develop statewide programs of technology-related assistance for individuals with disabilities in a manner consistent with the provisions of this title, particularly in terms of the impact of such efforts on individuals with disabilities; and

(iii) the efficacy of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities;

(B) procedures for providing direct communication between public providers of assistive technology devices and assistive technology services and private providers of such devices and services (including employers); and

(C) the development and dissemination of information relating to—

(i) use of the program by individuals with disabilities, families or representatives of individuals with disabilities, and professionals who work in the field of technology-related assistance, and other appropriate individuals; and

(ii) the nature of the inquiries made by the individuals described in clause (i).

(5) TRAINING AND TECHNICAL ASSISTANCE.—The State may provide directly or support public or private training and technical assistance activities relating to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) ACCESS TO TECHNOLOGY-RELATED INFORMATION.—The State may develop, operate, or expand a system for public access to information concerning technology-related assistance, including information about assistive technology devices and assistive technology services, funding sources, costs, and individuals, organizations, and agencies capable of providing technology-related assistance to individuals with disabilities. In developing, operating, or expanding a system described in the preceding sentence, the State may—

(A) develop, compile, and categorize print, braille, audio, and video materials containing the information described in such sentence;

(B) identify and classify existing funding sources, conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(C) identify existing support groups and systems designed to help individuals with disabilities make effective use of technology-related assistance; and

(D) maintain a record of the extent to which citizens of the State use or make inquiries of the system established under this paragraph, and of the nature of such inquiries.

(7) INTERSTATE AGREEMENTS.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals of all ages with disabilities to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, school, work, or in other environments that are part of daily living.

(8) OTHER ACTIVITIES.—The State may utilize amounts made available under grants made under this title for any other

(7) INFORMATION AND EVALUATIONS.—A description of—

(A) procedures used for compiling information; and
(B) procedures that will be used to conduct evaluations.

(8) STATE POLICIES WITH RESPECT TO CONTRACTS AND AGREEMENTS.—A description of the policies governing contracts, grants, and other arrangements with public agencies, private nonprofit organizations, and other entities or individuals for the purpose of providing assistive technology devices and assistive technology services consistent with the provisions of this title.

(9) DISTRIBUTION PROCEDURE.—An assurance that, to the extent practicable, technology-related assistance made available with amounts received under the grant will be equitably distributed among all geographical areas of the State.

(10) COMPLIANCE WITH ACT.—An assurance that amounts received under the grant will be expended in accordance with the provisions of this title.

(11) SUPPLEMENT OTHER FUNDS.—An assurance that amounts received under the grant—

(A) will be used to supplement amounts available from other sources that are expended for technology-related assistance, including the provision of assistive technology devices and assistive technology services; and

(B) will not be used to pay a financial obligation for technology-related assistance (including the provision of assistive technology devices or assistive technology services) that would have been paid with amounts available from other sources if amounts under the grant had not been available, unless—

(i) such payment is made only to prevent a delay in the receipt of appropriate technology-related assistance (including the provision of assistive technology devices or assistive technology services) by an individual with disabilities; and

(ii) the entity or agency responsible subsequently reimburses the appropriate account with respect to programs and activities under the grant in an amount equal to the amount of the payment.

(12) CONTROL OF FUNDS AND PROPERTY.—An assurance that—

(A) a public agency shall control and administer amounts received under the grant; and
(B) a public agency or an individual with disabilities shall—(i) hold title to property purchased with such amounts; and
(ii) administer such property.

(13) REPORTS.—An assurance that the State will—

(A) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this title; and
(B) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this paragraph.

(14) COMMINGLING OF FUNDS.—An assurance that amounts received under the grant will not be commingled with State or other funds.

(15) FISCAL CONTROL AND ACCOUNTING PROCEDURES.—An assurance that the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for amounts received under the grant.

(16) AVAILABILITY OF INFORMATION.—An assurance that the State will—

(A) make available to individuals with disabilities and the families or representatives of individuals with disabilities information concerning technology-related assistance in a form that will allow such individuals to effectively use such information; and

(B) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials.

(17) OTHER INFORMATION.—Such other information and assurances as the Secretary may reasonably require.

SEC. 103. EXTENSION GRANTS.

(a) GENERAL AUTHORITY.—The Secretary may award a 2-year extension grant to any State that demonstrates to the Secretary that the State made significant progress in developing and implementing a statewide program of technology-related assistance under a grant provided under section 102, consistent with the requirements of such section and the purposes described in section 2(b)(1).

(b) AMOUNTS OF GRANTS.

(1) IN GENERAL.—(A) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each State that receives a grant under this section an amount that is not less than \$500,000 and not more than \$1,500,000.

(B) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than \$150,000.

(C) For purposes of this paragraph:

(i) The term "State" does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(ii) The term "territory" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) CALCULATION OF AMOUNT.—The Secretary shall calculate the amount described in paragraph (1) on the basis of—

(A) amounts available for making grants pursuant to this section;

(B) the population of the State;

(C) the types of assistance to be provided; and

(D) the amount of resources committed and available from other sources.

(3) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated in any fiscal year for purposes of carrying out the provisions of this section shall first be made available to States

that received grants under this section during the fiscal year preceding the fiscal year concerned.

(c) APPLICATION.—A State that desires to receive an extension grant under this section shall submit an application that contains the following:

(1) NEEDS.—A description of needs relating to technology-related assistance of individuals with disabilities, including individuals from underserved groups, families or representatives of individuals with disabilities, and other appropriate individuals within the State.

(2) ACTIVITIES UNDER DEVELOPMENT GRANT.—A description of

the specific activities carried out under the development grant received under section 102 and the relationship of such activities to the development of a statewide program of technology-related assistance.

(3) PROGRESS.—Documentation of the progress made under the development grant toward development of a statewide program of technology-related assistance.

(4) PUBLIC INVOLVEMENT.—A description of State actions designed to determine the degree of satisfaction of individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals with—

(A) the degree of their ongoing involvement in the development and implementation of the statewide program of technology-related assistance carried out by the State under the development grant; and

(B) the specific activities carried out by the State under the development grant; and

(C) progress made toward development and implementation of a consumer-responsive statewide program of technology-related assistance under the development grant.

(5) COMMENTS.—A summary of any comments received concerning the issues described in paragraph (4) and the State's response to such comments, solicited from individuals affected by the statewide program of technology-related assistance, including individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals.

(6) OTHER INFORMATION AND ASSURANCES.—The information and assurances described in section 102(e), except the preliminary needs assessment described in section 102(e)(4).

(7) COMPATIBILITY AND ACCESSIBILITY OF ELECTRONIC EQUIPMENT.—An assurance that the State will comply with guidelines established under section 508 of the Rehabilitation Act of 1973.

SEC. 104. PROGRESS REPORTS.

(a) IN GENERAL.—Each State that receives a grant under this title shall submit to the Secretary annually a report that describes—

(1) completed activities carried out under the grant, especially with regard to section 102(e)(6), including, to the extent appropriate, a description of the impact of such activities on individuals with disabilities, public agencies, financial resources committed to technology-related assistance for individuals with disabilities, community-based organizations, and employers;

(2) unanticipated problems encountered in carrying out such activities;

(d) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

(1) is geographically equitable; and
(2) distributes the grants among States that have differing levels of development of statewide programs of technology-related assistance.

(e) APPLICATIONS.—Any State that desires to receive a grant under this section shall submit an application that contains the following information and assurances:

(1) DESIGNATION OF RESPONSIBLE ENTITY.—The designation by the Governor of the office, agency, entity, or individual responsible for—

(A) preparing the application;
(B) administering and supervising the use of amounts made available under the grant;
(C) planning and developing the statewide program of technology-related assistance;
(D) coordination between public and private agencies, including the entering into of interagency agreements;
(E) ensuring active, timely, and meaningful participation by individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals with respect to performing functions and carrying out activities under the grant; and
(F) the delegation of any responsibilities described above, in whole or in part, to one or more appropriate offices, agencies, entities, or individuals.

(2) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies in the preparation of the application and the continuing role of such agencies in the development of the statewide program of technology-related assistance.

(3) PUBLIC INVOLVEMENT.—A description of the nature and extent of involvement of individuals with disabilities in the families or representatives of such individuals, and other appropriate individuals who are not employed by a State agency in the development of the application and the continuing role of such individuals in the development of the statewide program of technology-related assistance.

(4) PRELIMINARY NEEDS ASSESSMENT.—A tentative assessment of the extent of the need of individuals with disabilities in the State, including individuals from underserved groups, for a statewide program of technology-related assistance and a description of previous efforts and efforts continuing on the date of the application to develop a statewide program of technology-related assistance.

(5) STATE RESOURCES.—A description of State resources and other resources (to the extent such information is available) that are available to commit to the development of a statewide program of technology-related assistance.

(6) GOALS, OBJECTIVES, FUNCTIONS, ACTIVITIES, AND OUTCOMES.—The State's goals, objectives, functions, and activities planned under the grant, and the expected outcomes at the end of the grant period with respect to a consumer-responsive statewide program of technology-related assistance, consistent with the purposes described in section 2(b)(1).



2722 3RD AVE N. • STE. WEST 300 • BILLINGS, MT 59101-1931 • TELEPHONE (406) 256-6871 • FAX (406) 256-68

March 2, 1998

To Whom It May Concern:

Based on the numbers and information developed by Mr. Amsden for his company, Not Neon, it would appear that the company can be profitable from inception. Doug spent a great amount of time on the development of this information, contacted a great many sources and worked well with our staff in the collection and presentation of this material

We think he work ethic, dedication and ideas as presented in this business plan, are worthy of your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom C. McKerlick".

Tom C. McKerlick

*The Staff and Board of Directors of
Living Independently for Today & Tomorrow*
certify to all that

Doug Amsden

has fulfilled the requirements of

Peer Mentor & Related Services

*and is hereby admitted the rights and privileges
belonging to that training and achievement
given under the Training Board seal.*



June 20, 2003
Date

Dave Swanson, Director of Program
Services



The President's Committee on Employment of People With Disabilities

Dignity, Equality, Independence Through Employment

Suite 636

1111 20th Street, N.W.
Washington, D.C. 20036-3470

202-653-5044 VOICE
202-653-5050 TDD
202-653-7386 FAX

Chairman
Justin Dart

February 26 1990

Dear Mr. Anderson -

Thank you so much for
your good letter and excellent
article ~ "Not Neon."

You are a good writer!

And I congratulate you on your
efforts to participate in the
improvement of the system of
services.

I will pass your material

ADVISORY COUNCIL

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The Director of the Office
of Personnel Management
The Director of the United States
Information Agency
The Postmaster General

on to the Corazon.

Keep up the good fight.

Together, we shall overcome.

Yours truly,



YELLOWSTONE REHABILITATION ASSOCIATES, INC.

Thomas Dell, M.S., C.V.E. • Juanita A. Hooper, M.S., C.R.C.

VOCATIONAL EVALUATION

Referred Client: Doug Amsden

Referral Source: Reg Gibbs, Counselor

Date of Evaluation: July 1 and 2, 1998

Date of Report: July 9, 1998

C.V.E.: Carol Feuerbacher, M.S., C.R.C.

INTRODUCTION

Mr. Doug Amsden participated in a Vocational Evaluation for the purpose of measuring his aptitudes, interests, academic grade level and specific gross and fine motor skills and abilities. He has been referred by Mr. Reg Gibbs, Counselor, to assist in efforts to develop a vocational rehabilitation plan for this individual.

Doug is a 38 year old gentleman who presents for the vocational evaluation with a history of post traumatic brain injury from a motor vehicle accident in 1979.

SELECTIONS FROM TESTS ADMINISTERED

Achievement Tests

Wide Range Achievement Test

Gates-MacGinitie Reading Tests

Interest Inventory

Vocational Preference Inventory

Self-Directed Search

Career Orientation Placement Survey

Career Orientation Placement and Evaluation Survey

Aptitude Tests

S.R.A Verbal Test

PTI Oral Directions Test

Minnesota Clerical Test

Minnesota Paper Form Board Test

Motor Skills

Hester Mobile Vocational Evaluation

Lafayette Peg Board (MVE)

Minnesota Dexterity Test (MVE)

DATA BASE

- Normed referenced tests
- Initial interview (including work history)
- Observation of client for a period of 8 hours
- Informal assessment
- Neuropsychological records, as provided

BACKGROUND INFORMATION AND HISTORY

Doug presented himself as a 38 year old single male Caucasian who arrived for the evaluation on time.

Doug was born in Broadus, Montana and graduated from Powder River County High School. He attended Northern Montana College in Havre from 1981 to 1984 studying "diesel fuel injection". No further education or training was reported. Doug listed "activist" as his leisure time activity. Employment interest is "plastic industry".

Doug reported that he has not worked since 1987. He was self-employed as the "owner/operator" from April, 1987 to December, 1987. Specific duties included "order product, cut material, engrave, distribute". Previously, Doug worked at Broadus Elementary School as a "supervisor/custodian" from September, 1984 to November, 1984. Specific duties included "playground attendant and after school custodian". Doug worked as a "roustabout" from June, 1978 to April, 1979. Specific duties included "rebuild water pumps". Doug was employed at Hyatt Chevrolet as a "handyman" from October, 1977 to May, 1978. Specific duties included "clean shop, assist mechanics".

Specifically, this individual presents a past work history as a *semi-skilled worker* with standard vocational preparation of typically three to six months of specific vocational preparation. The physical requirements of the jobs in his work history according to the U.S. Dept. of Labor, Classification of Jobs range from **light duty** (occasional lift/carry up to 20 pounds; frequent lift/carry up to 10 pounds) to **medium duty** (occasional lift/carry up to 50 pounds; frequent lift/carry up to 25 pounds) in nature.

MEDICAL

Doug sustained a traumatic brain injury due to a motor vehicle accident in 1979. He completed a Neuropsychological Evaluation on November 21, 1996 and December 3, 1996 with Joseph McElhinny, Psy. D. Dr. McElhinny reported the following: "His pattern of performance suggests that he has at least average intellectual abilities. Simple auditory attention skills are in the high average range."

Dr. McElhinny further reported the following:

- "some weaknesses in visual perceptual problem solving and abstract reasoning"
- "His attention/concentration abilities...were in the average range."
- "Mr. Amsden's cognitive flexibility and simple problem solving skills are quite well preserved."

Doug reported the following physical restrictions:

Lifting: "don't lift more than a vacuum cleaner for lifting"

Walking: "can walk a mile"

Sitting: "one to two hours maybe"

Hearing: "I've got a hearing problem...never diagnosed.

 Need people to talk directly in front of me."

Vision: "not as good as it once was", "difficulty with night driving"

Standing: "weak knee"

Memory: "long-term and short-term memory deficits"

Doug reported that he "can't overdo". Doug indicated that he is "out of shape". Doug was asked about his level of pain. He indicated that he has pain in his hip but it is "very little".

SUMMARY OF OBSERVATIONS

Doug appeared to adequately commit himself to the evaluation, and indicated that he was not presently on any medications that would disturb the results of the testing.

Since it appears Doug put forth the necessary effort with regard to completing all tasks assigned, this evaluation may be considered an adequate representation of those skills and abilities that were measured.

INTERESTS

Doug initially completed the *Self-Directed Search (SDS)*, to further determine his vocational interests. The SDS is an interest inventory designed for career exploration and planning. The inventory surveys the client's interests, competencies and preferences and relates their pattern of interest to more than a thousand careers. The SDS can also provide information about preferred working styles, values and work environments.

With regard to the client's SDS profile, he scored highest on the following scales:

Social Scale:

High scorers have social interests and prefer teaching or therapeutic roles. They are responsible and insightful in interpersonal relationships. Examples of specific areas of interest include:

- Case Aide
- Casework Supervisor
- Welfare Director
- Research Director
- Political Scientist
- Playground Director
- Elementary School Teacher

Enterprising Scale:

High scorers tend to be similar to social high scorers but more apt to be persuasive than helpful. Specific occupations that this individual indicated an interest in include:

- Sanitarian
- Program Services Planner
- Legislative Assistant
- Human Resource Advisor
- Politician
- Manufacturer's Representative

Realistic Scale:

High scorers regard themselves as practical minded normal people. Their hardheaded orientation is consistent with their mechanical skills and interests and their lack of skill in interpersonal relations. Specific occupations that Doug indicated an interest in include:

- Forester
- Helicopter Pilot
- General Farmer
- Photo Engraver
- Automobile Body Repairer
- Machine Engraver (Printing and Publishing)
- Engraver (Glass Products)
- Janitor
- Animal Trapper
- Machine Engraver

Other occupations that Doug indicated an interest in include:

- Critic
- Scientific Research Worker
- Free-Lance Writer
- Business Executive
- Cook/Chef

WORK VALUES

Based on the Career Orientation and Placement Evaluation of this individual, Doug values the following work activities:

Investigative rather than Accepting: Intellectual curiosity and the challenge of solving complex tasks are major values of persons scoring high on this scale. The need for information is very important to such people.

Practical rather than Carefree: Doug values showing proper appreciation for one's belongings and appreciates the practical and efficient way of doing things.

Independence rather than Conformity: This indicates that the client prefers working in an environment that is relatively free of rules and regulations.

Leadership rather than Supportive: Making decisions, directing others and speaking for the group are major values of persons scoring high on this scale. Such persons usually take positions of leadership. *This is an important value for Doug.*

Orderliness rather than Non-compulsive: Orderliness and keeping things neat and in their proper place are major values of persons scoring high in this area, as the client did.

Privacy rather than Recognition: Doug values keeping his activities private and is not concerned with becoming well known.

Realistic rather than Artistic: Artistic appreciation and the enjoyment of music and the arts are not major values of persons scoring similarly on this scale.

Reserved rather than Social: Persons scoring toward the reserved end of this scale value activities in which they spend time on their own projects and tend to their own affairs rather than helping or working with others. *This is a strong value for Doug.*

Doug listed the following as very important on his Work Value Questionnaire:

- A salary that will enable you to measurably improve your current lifestyle.
- A chance to be part of a small, entrepreneurial company with new and exciting ideas.
- A chance to work for a company that is involved in a product or service that interests you personally.
- A chance to work for an organization offering a product or service that helps to make the world a better place.

STANDARDIZED TESTING RESULTS

Gates-MacGinitie Reading Tests

The Gates-MacGinitie Reading Tests measure the general level of reading achievement.

Doug scored in the seventh grade level (7.30) for reading comprehension and in the ninth grade level (9.20) for vocabulary skills.

Wide Range Achievement Test, Revised Edition Level 2:

The Wide Range Achievement Test, also known as the WRAT-R2, is designed to provide a quick measure of academic levels for arithmetic computation.

	Score	Grade Level
WRAT-R Arith.	37	11.80

Doug scored at the eleventh grade level (11.80) on this particular test.

SRA Verbal Form Test

The SRA Verbal Form Examination assesses overall adaptability and flexibility in comprehending and following instructions, and in adjusting to alternating types of problems.

	Academic	Skilled	Semi-skilled	Unskilled
SRA Verbal	50%	58%	78%	88%
SRA Numerical	30%			

Doug scored in the 50th percentile for the linguistic subtest of the SRA and the 30th percentile on the quantitative subtest of the SRA. Based on an academic norm, this individual's scores would be in the average range for linguistic skills and in the low average range for quantitative ability. This indicates that Doug would not

likely experience significant difficulty with many of the verbal and mathematical requirements of retraining programs at the technical or community college level.

Doug also scored in the average range (58th percentile) for skilled occupations, based on the SRA Verbal Form. These results indicate that this individual would experience little difficulty with most of the verbal and quantitative demands of jobs in the skilled level (i.e., occupations requiring 1 to 2 years of specific vocational preparation). Also, Doug would not experience difficulty with most of the verbal and quantitative demands of a semi-skilled or unskilled job.

He could be expected to function without a large degree of supervision in most semi-skilled and unskilled occupations.

PTI Oral Directions Test

The Oral Directions Test is an instrument designed to assess an individual's ability to follow directions orally and measures one's ability to effectively utilize memory and attention span. Specifically what is observed and measured with the client is their ability to listen to information and organize it into an integrated pattern.

Doug scored in the average range (45th percentile) on this test indicating a general ability to understand and follow oral instructions.

Minnesota Clerical Test

This is an instrument designed to measure elements of perceptual speed and accuracy of the type required to perform various clerical activities. Norms are based on clerks and typists employed at a large Northeastern bank.

The client demonstrated a low score (25th percentile) with regard to working with numbers and he scored in the average range (40th percentile) with regard to working with names. These perceptual tasks are common requirements for many entry level clerical positions such as teller or encoder in a bank.

Therefore, the client would experience little difficulty with the rapid perceptual demands of clerical occupations that require extensive filing (example: file clerk). However, the client would likely experience difficulty with the rapid perceptual demands of clerical occupations that require working with number data (examples: bookkeeper, payroll clerk).

Revised Minnesota Paper Form Board Test:

The Revised Minnesota Form Board is a test consisting of sixty four two dimensional diagrams cut into separate parts. This test measures those aspects of mechanical ability requiring the capacity to visualize and manipulate objects in space. This would be useful with regard to identifying mechanically related occupations such as drafting and surveying, for example, as reemployment alternatives for further vocational exploration.

This test was administered to Doug for the purpose of obtaining a measurement of mechanical ability. The client scored in the low range (25th percentile) indicating that he demonstrates deficits with regard to the ability to visualize and manipulate objects in space.

Motor Skills Testing:

Doug was also administered a series of coordination and dexterity tests to assess his gross and fine motor abilities. These tests exclusively measure upper body motor skills. Specifically, abilities such as finger dexterity, arm-hand steadiness, manual dexterity, two-arm coordination, two-hand coordination, aiming and reaction time were measured.

The results were the following:

Finger Dexterity

The Purdue Pegboard involves the use of skillful, controlled finger movements to manipulate tiny objects through a small space.

Performance	Low	Average	(Right Hand)
	Low		(Left Hand)

Arm-Hand Steadiness

This results represent the worker's ability to hold his hand in a static position for extended period of time. This factor is related to success in jobs such as soldering, painting small objects and fine assembly.

Performance	Average
-------------	---------

Two-Hand Coordination

This ability is required to simultaneously manipulate two dials as quickly and accurately as possible.

Performance	Low
-------------	-----

Two-Arm Coordination

This ability is required to move both arms in a simultaneous and coordinated manner using the whole arm.

Performance	Low
-------------	-----

Reaction Time

This requires the ability to quickly respond to a simple movement based on a visual cue. This ability is involved in jobs such as tending machinery and driving equipment.

Performance	Low
-------------	-----

Doug also scored in the low range for general manual dexterity and in the low average range for aiming ability. Manual dexterity is related to many types of packaging, sorting and machine operating jobs. Aiming ability is found in jobs such as hand painting small objects and soldering.

These motor skills are essential for a work environment such as an assembly line, or in a position such as an electronic technician. There were no significant deficits with Doug's motor skills although his scores were generally in the low average to low range.

VOCATIONAL APTITUDE:

A composite of demonstrated aptitude levels follows, these levels were measured utilizing various assessment tools as defined throughout the report. His aptitude scaled scores are listed according to the following system:

- 1= the top ten percent of the population
- 2= the top third exclusive of the highest ten percent
- 3= the middle third of the population
- 4= the bottom third exclusive of the lowest ten percent
- 5= the lowest ten percent of the population

<u>Aptitude</u>	<u>Scaled Score</u>
G- General Learning	3

General Learning Ability is the ability to "catch on" or understand instructions and underlying principles; the ability to reason and make judgments.

V- Verbal Aptitude	4
--------------------	---

Verbal Aptitude is the ability to understand the meaning of words and ideas associated with them and to use them effectively.

N- Numerical Aptitude

3

Numerical aptitude is the ability to perform arithmetic operations quickly and accurately.

S- Spatial Aptitude

4

Spatial aptitude is the ability to comprehend forms in space and understand relationships of plane and solid objects.

F- Form Perception

4

Form perception is the ability to perceive pertinent detail in objects or in pictorial or graphic material.

Q- Clerical Perception

(names) 3
(numbers) 4

Clerical perception is the ability to perceive pertinent detail in verbal or tabular material.

K- Motor Coordination (& Gross Motor Skills)

4

Motor coordination is the ability to coordinate eyes and hands or fingers accurately so as to make precise movements with speed.

F- Finger Dexterity

(Right Hand) 3
(Left Hand) 4

Finger dexterity is the ability to move fingers and manipulate small objects with the fingers rapidly and accurately.

M- Manual Dexterity

4

Manual dexterity is the ability to move the hands easily and skillfully.

E- Eye-Hand Coordination

4

Eye-hand coordination is the ability to respond to visual cues using motor skills.

FUNCTIONAL ASSESSMENT:

LEARNING ABILITY:

This item deals with "general" learning ability. The central issue in consideration of this is the person's capacity for acquiring employable skills. Also, his or her ability to function in a higher education school setting.

Neuropsychological records (dated 12/3/96) provided reported that Doug "has at least average intellectual abilities".

ABILITY TO READ AND WRITE IN ENGLISH:

The focus of this item is on fluency with English since impairment in the use of this language represents a serious vocational limitation.

Doug scored in the seventh grade level (7.30) for reading comprehension and in the ninth grade level (9.20) for vocabulary skills on the Gates-MacGinitie Reading Tests.

MATH SKILLS:

Doug scored at the eleventh grade level (11.80) on the Wide Range Achievement Test.

VISION:

The category of vision includes more than just acuity (how far the client can see). Limitation of visual field, difficulty with eye coordination or the ability to focus, or problems with depth perception or color vision are examples of problems that might also affect the rating on this item. The rating reflects the client's level of functioning while using any correction (e.g., eyeglasses or contact lenses) that he or she possesses.

This evaluator did not observe Doug having any difficulty with reading the tests or completing the assigned activities over the course of the evaluation. He wears corrective lenses. Doug did report that his vision is "not as good as it once was". He indicated difficulty with "night driving".

HEARING:

This item refers primarily to the ability to perceive and understand sound, especially the human voice. The rating considers functioning while using any available assistance such as a hearing aid. If the person has no hearing aid at the time the evaluation is being done, the rating is done according to current functioning.

The client demonstrated no difficulty understanding general conversation or task instructions and verbalized no difficulties. However, Doug reported that "I've got a hearing problem...never diagnosed". Doug indicated that he needs "people to talk directly in front of me".

SPEECH:

This item overlaps to some extent with "Language Functioning" but primarily is concerned with intelligible speech.

No significant deficits were apparent over the course of the evaluation. Speech is easily intelligible and voice quality and speech pattern are easily apparent.

LANGUAGE FUNCTIONING:

This item focuses on the client's ability to use the English language in verbal communication.

No significant limitations were apparent over the course of the evaluation; he can communicate effectively in the English language.

UPPER EXTREMITY FUNCTIONING:

Upper extremity functioning refers mainly to shoulder and arm strength and usefulness.

Doug scored in the low range for two-arm coordination and manual dexterity.

HAND FUNCTIONING:

Dexterity, eye-hand coordination, speed, strength and range of motion all play a part in determining the rating on this item.

No significant deficits were evident over the course of testing. Doug scored in the low average range for right hand finger dexterity and in the low range for left hand finger dexterity.

MOTOR SPEED:

This item addresses physical or cognitive barriers (such as arthritis, slow movement or extreme motor deficits due to mental retardation, medication, etc.) that may adversely affect general motor function.

No significant limitations were evident with motor speed. Doug demonstrates no slow movement or extreme motor deficits due to mental retardation, medication or low functioning capacity.

AMBULATION OR MOBILITY:

Because of the diverse impairments that can limit mobility, this item is one of the most complex in the inventory. The

functional theme across all rating levels concerns the extent of assistance that a person needs in order to get about in the community.

No significant deficits were apparent to this evaluator. Doug can ambulate and does not require assistance from others to get around in the community.

PERSONAL ATTRACTIVENESS:

Personal attractiveness is a sensitive area. It is also quite subjective but it would be foolish to deny that it plays a role in obtaining gainful employment in the open labor market. This item is intended to reflect appearance and other personal characteristics that may cause people to avoid close contact. The response of a typical employer is the criteria for this item.

Doug appeared for the evaluation in a t-shirt and jeans. His appearance is casual and he could be expected to dress appropriately for blue collar employment.

WORK HABITS:

Work habits refer to the person's ability to behave in such a way that he or she would be likely to obtain and then maintain a job. These considerations include punctuality, behavior appropriate to a work setting, ability to stay on task without excessive supervision and interviewing skills. This item is intended to reflect a composite picture of the client's capacity to function in a work setting.

Over the course of the evaluation, Doug appeared to be conscientious and diligent in all his assigned tasks. He arrived on time for each day of the vocational evaluation and returned promptly following breaks.

EFFECTIVE INTERACTION WITH EMPLOYERS AND CO-WORKERS:

The client's skills in interpersonal relationships are reflected in this item particularly as they apply to employers and co-workers. Some people can get along well with their friends but repeatedly get into conflicts with supervisors. These people would be rated as having a limitation, regardless of how pleasant they may be in other circumstances.

Doug was cooperative throughout the testing and conversed effectively. In fact, at the end of the vocational evaluation, Doug reported that he had a message for his rehabilitation counselor, Mr. Gibbs. Doug stated, "Tell Reg I was cooperative."

Doug will likely look for leadership positions within an organization if given the opportunity. He is not afraid to take charge of others. Doug enjoys an independent work environment without a lot of rules and regulations that must be followed. Indeed, Doug's preference to work independently on his own without being around others fits well with his personality.

INITIATIVE AND PROBLEM SOLVING ABILITY:

This item refers to the person's ability to undertake a task or solve problems without being instructed or pushed by another person. The ability to recognize problems or needs is the first component followed by the ability to think of alternative actions or see possible solutions. Also, important is the ability to start action on one's own accord.

Doug would likely be able to see alternatives and work effectively to find solutions to problems in an unskilled or semi-skilled occupation.

SPATIAL AND FORM PERCEPTION:

This item concerns the ability to integrate and comprehend sensory information. It also addresses the ability to think abstractly and to visualize objects in the mind's eye.

Doug demonstrates low ability with spatial and form perception and tasks requiring fine discrimination.

CLERICAL SKILLS:

The client demonstrated low to average aptitude for the kind of perceptual tasks that are common requirements of many entry level clerical positions such as teller or encoder in a bank.

CAPACITY FOR EXERTION:

This item refers to a person's ability to perform physical labor. One could be impaired in this area for any of several reasons including muscular weakness, impaired cardiac status, pain or mobility problems.

Doug reported difficulty with lifting. He indicated that he does not lift anything "more than a vacuum cleaner".

MEMORY:

The focus on this item is on recent (i.e., short term) memory. This is important for new learning and day-to-day functioning.

Doug completed the PTI Oral Directions Test and scored in the average range on this instrument. This requires the ability to effectively utilize memory and attention span.

Doug self-reported "long-term and short-term memory deficits".

ACCEPTABILITY TO EMPLOYERS:

This item refers to any characteristic that could influence employer receptivity toward the client. In other words, how much prejudice is he or she likely to encounter in the labor market.

Doug does not present overt signs of a disability and will likely be very acceptable to employers with regard to a prejudicial attitude.

LOSS OF TIME FROM WORK;

This item concerns the amount of time that an individual would be likely to miss from work once he or she obtains a job. It refers specifically to absence required by treatment or resulting from the disability, but this should be interpreted very broadly to include the full range of behavioral and physical causes of absence from work.

Doug does not appear to have significant physical difficulties that would cause absence from work.

ECONOMIC DISINCENTIVES

Doug is currently receiving SSDI and SSI.

WORK ENDURANCE

Doug completed one full day and one half day of testing.

CONCLUSIONS AND RECOMMENDATIONS

Reg Gibbs, Counselor, has requested that Doug's pattern of worker traits such as interests, achievement, aptitude, dexterity and other factors be analyzed and documented. The results are included in this report.

Mr. Amsden indicated that his goal for the vocational evaluation included:

- "get acquainted with equipment in plastic industry"

The following work related behaviors are noted for the purposes of employment:

Employment Assets

- asks appropriate questions when directions are unclear
- completion of tasks
- ability to communicate
- punctuality
- dependability
- personal care

Areas of concern

- short-term and long-term memory deficits (self-reported)
- endurance for full-time work, at this time
- limited work history
- lack of recent employment

Doug has may varied secondary interests including the **Realistic** area of related occupations, based on the results of the Self-Directed Search. High scorers tend to have interests in machines, tools and the outdoors. Work activities that they find enjoyable are: operating equipment, using tools, building and repairing. Specific examples of jobs of interest in this area include:

- Engraver
- Janitor
- Animal Trapper
- Machine Engraver
- Fish and Wildlife Specialist
- Photoengraver
- Cook/Chef

Relating to the area of **Realistic** occupations, Doug reported the following competencies/abilities:

- I have used wood shop power tools such as a power saw, lathe, or sander.
- I can change a car's oil or tire.
- I have operated power tools such as a drill press, grinder, or sewing machine.
- I can refinish furniture or woodwork.
- I can repair furniture.
- I can make simple plumbing repairs.
- I can build simple articles of wood.
- I can paint rooms of a house or an apartment.

Based on the results of the evaluation, Doug demonstrates the interests and aptitudes for the following occupations that typically can be learned on-the-job without further vocational technical training or schooling:

- Janitor
- Printing and Publishing Machine Engraver
- Glass Products Engraver
- Light Delivery Truck Driver
- Photo Technician
- Automobile Dealership Lot Attendant
- Print Shop Helper

Examples of local employers include:

Photofinishing

- Kasper's Photo Shops
- Qualex Inc.
- Supra Color Labs

Engravers

- Badge West Awards & Engraving
- Memories Gifts & Engraving
- Universal Awards
- Western Wards & Engraving

Janitorial/Custodial

- Executive Cleaning
- ABC Maintenance
- Walker Janitorial Services
- Automated Maintenance Services
- Best in the West Janitorial Services
- Bright Knights Janitorial
- Commercial Building Maintenance
- JM Contractors

Automobile Dealerships

- Archie Cochrane
- Big Sky Auto Mall
- Billings Nissan
- Selover Buick
- Denny Menholt Frontier Chevrolet

The following recommendations are made with regard to employment:

1. Part-time employment is recommended at this time. Full-time employment does not appear feasible, at this time, due to the length of time that Doug has been out of the labor market.

Doug agrees w/ this recommendation.

Doug agrees

2. Stamina and endurance for a four hour work day would be more realistic, at this time, for Doug than full time employment. Ideally, part-time employment would allow him an opportunity to physically adjust to the demands of re-entering the labor market. Doug did indicate during the vocational that he is "out of shape".

Doug agrees

3. Doug is more of a 'hands-on' learner than problem solves visually. In fact, Doug reported that he "learns best hands-on". He will likely experience difficulty with employment that requires a lot of reading, based on the results of the Gates-MacGinitie.

Reading Comprehension Grade Equivalent 7.30

Doug agrees

4. Doug has an average ability to learn and follow oral instructions. He would likely perform quite well in unskilled and semi-skilled employment opportunities. After learning tasks related to the job, he would likely perform effectively, without a large degree of supervision.

Doug agrees

5. Doug reported "long-term and short-term memory deficits". Based on his concern regarding memory difficulties, he will likely benefit from performing repetitive or short-cycle work. This would involve performing certain routine tasks according to set procedures.

Doug agrees

6. Doug's main area of interest for employment purposes is self-employment with a plastic name tag business. If Doug wishes to pursue this option in the future, it is recommended that he first work for an employer in that area to gain experience. In fact, during the course of the evaluation, Doug indicated that he was thinking about "gaining experience" before attempting self-employment, particularly since he has been out of the labor market for over ten years. Also, Doug indicated that his goal for the vocational evaluation was to "get acquainted with equipment in plastic industry". Working with an employer will allow Doug the opportunity to become familiar with the plastic industry.

Doug agrees

7. Doug has a high interest in the Social area of employment. However for the purposes of employment, it is recommended that Doug focus on Realistic occupations. He reported a difficulty with social situations and trusting others. Based on the results of the Career Orientation Placement and Evaluation Survey (COPES), Doug values independence and working alone rather than working with others and helping others.

*Doug
agrees*

8. With academic upgrading and remediation, Doug would likely be able to cognitively succeed with short-term retraining or schooling (six months to one year). However, Doug did not report a strong desire to attend school or further his education. In fact when asked to describe how he feels about school, Doug stated that "School can often be bad, unless a person is allowed to pursue what interests them personally."

*Doug
agrees*

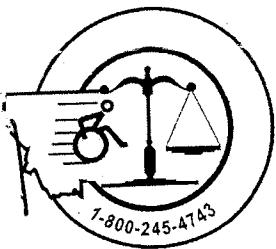
9. Doug will likely need job development and placement assistance to target employers identified in the vocational evaluation.

Thank you for this referral.

Sincerely,

Carol Feuerbacher

Carol Feuerbacher, M.S.
Certified Vocational Evaluator
Certified Rehabilitation Counselor



MONTANA ADVOCACY PROGRAM, INC.

The Civil Rights Protection & Advocacy System for the State of Montana

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Helena

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Great Falls

Gay Moddrell
Kalispell

Diana Tavary
Helena

Ken Luraas
Advisory Council Chair
Lewistown

August 18, 2005

Mr. Doug Amsden
769 Fallow Lane #322
Billings, MT 59102

Dear Doug:

I have reviewed my notes from our conversation of August 10, 2005, with the Montana Advocacy Executive Director, Bernadette Franks-Ongoy, and the other advocate, Lynn Winslow, who provided advice to you regarding your issue with the Vocational Rehabilitation Program back in December of 2003.

As per our letter to you of December 11, 2003, we are not able to assist you at any level regarding this issue. While we understand that you feel your civil rights have been violated and you have an action pending before the Supreme Court, our decision remains the same.

We recommend that you contact the Lawyers Referral Service at 406-449-6577 for the names of other attorneys who may be able to assist you in this matter.

I am enclosing a copy of our Grievance Policy for your files, should you wish to file a grievance with our Executive Director regarding this decision.

Sincerely,

Lori Idland
Advocacy Specialist/Paralegal

lji

Enclosure

1
2
3
4
5
6
7 MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
8 YELLOWSTONE COUNTY

9 DOUGLAS G. AMSDEN,

10 Petitioner,
11 and

12 MONTANA DEPARTMENT OF ,
13 PUBLIC HEALTH AND HUMAN
SERVICES,

14 Respondent.

CAUSE NO. DR 04-337

JUDGE RUSSELL C. FAGG

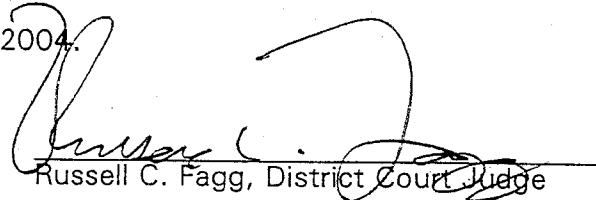
SCHEDULING ORDER

15 The Court held a telephonic scheduling conference with Petitioner Douglas
16 Amsden and Cary Lund, who represents the Department of Public Health and Human
17 Services, on June 18, 2004. Pursuant to that conference,

18 **IT IS HEREBY ORDERED** that Petitioner will file his initial Brief in by July 16,
19 2004; Respondent shall file its Response by August 6, 2004; and Petitioner shall file his
20 Final Reply Brief, if deemed necessary, by August 27, 2004. The Court will then deem
21 the matter submitted.

22 The Court understands counsel for Respondent shall endeavor to get the record
23 before the Hearings Examiner filed in the Court file.

24 DATED this 23rd day of June, 2004.


25
26 Russell C. Fagg, District Court Judge

27 cc: Douglas Amsden
Cary Lund

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY

DOUGLAS G. AMSDEN,	)	CAUSE NO. DR 04-337
and	)	JUDGE RUSSELL C. FAGG
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES,	)	ORDER AND DECISION
Respondent.)	

ORDER

For the reasons explained below, the decision of the Hearing Officer and Department of Public Health & Human Services is **AFFIRMED**.

DECISION

Nature of the Case

On January 25, 2002, the Department of Public Health and Human Services (hereafter "Department") issued its first decision discontinuing the Appellant's (hereafter "Mr. Amsden") original Individualized Plan for Employment (IPE), and recommending that a new plan be developed. As a recipient of Vocational Rehabilitation services, Mr.

Amsden and the Department developed the IPE with the goal of Mr. Amsden becoming a self-employed engraver in a business called "Not Neon Technologies." The original plan was for Mr. Amsden to be become a self-employed engraver by June 30, 2001. But, after problems with the implementation of the IPE, the Department discontinued funding and recommended other options be considered. Mr. Amsden appealed, and this Court affirmed the Department's dismissal on November 13, 2002, in Cause No. DV 02-287.

More recently, on November 26, 2003, Mr. Amsden filed a request for an administrative fair hearing with the Department. In response, the Department filed a motion to dismiss and the Hearing Officer granted that motion on February 23, 2004, on two grounds: 1) the Department's Office of Fair Hearings was an improper forum for the pursuit of a complaint arising out of the Montana Human Rights Act; and 2) the current appeal did not present a contested case since Mr. Amsden's claim was barred by res judicata.

Following dismissal by the Hearing Officer, Mr. Amsden sought the current judicial review on March 16, 2004. Mr. Amsden's arguments are difficult to discern, but it appears that he is again challenging the Department's refusal to fund his business, as well as arguing the Department has discriminated against him since his appeal includes citations to the Montana Human Rights Act.

Issues

I. Did the Hearing Officer err by dismissing Mr. Amsden's discrimination claims for lack of subject matter jurisdiction?

II. Did the Hearing Officer correctly interpret Montana law by concluding Mr. Amsden was not entitled to a fair hearing due to the lack of an “adverse action” or “contested case”?

Standard of Review

A district court reviews an agency’s findings of fact to determine whether they are clearly erroneous in view of the substantial evidence in the record. *Roos v. Kircher Public School Board of Trustees*, 2004 MT 48, ¶7, 320 Mont. 128, ¶7, 86 P.3d 39, ¶7. An agency’s conclusions of law will be upheld if the agency’s interpretation of the law is correct. *Id.* Since the Hearing Officer’s dismissal rested primarily on conclusions of law and no findings of fact were issued, the review by this Court is limited to the agency’s interpretation of Montana law.

Discussion

I. Did the Hearing Officer err by dismissing Mr. Amsden’s discrimination claims for lack of jurisdiction?

The Hearing Officer dismissed Mr. Amsden’s human rights claims, concluding “jurisdiction over such discrimination cases rests exclusively with the Montana Human Rights Commission.” Mr. Amsden apparently argues this was error. However, this Court agrees with the Hearing Officer’s conclusion that a Fair Hearing before the Department was the wrong forum for Mr. Amsden’s alleged human rights violations.

A hearing may be dismissed when “the department does not have jurisdiction over the subject matter of the appeal procedure.” Admin. R. Mont. 37.5.313(e). In support of this conclusion, the Hearing Officer cited Mont. Code Ann. § 49-2-509 and *Chance v. Harrison*, 272 Mont. 52, 899 P.2d 537 (1995). The cited portion of the Montana Human Rights Act, Mont. Code Ann. § 49-2-509(7), provides in pertinent part that “[t]he

provisions of this chapter establish the exclusive remedy for acts constituting an alleged violation of chapter 3 of this chapter."

In a preceding decision to the one cited by the Hearing Officer, *Harrison v. Chance*, 244 Mont. 215, 797 P.2d 200 (1990), the Montana Supreme Court held the Human Rights Act provides the exclusive remedy for sexual discrimination claims. See also *Hash v. U.S. West Communications Services*, 268 Mont. 326, 332, 886 P.2d 442, 446 (1994) (reaffirming its decision that the Human Rights Commission is the exclusive remedy for discrimination claims).

The Montana Human Rights Act requires a complaint be filed with the Department of Labor and Industry for discriminatory practices listed in Title 49, chapter 3. The allegations made by Mr. Amsden are listed in chapter 3. Namely, Mont. Code Ann. § 49-3-203 covers “[a]ll educational, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state and local governmental agencies.” And Mr. Amsden’s petition for judicial review references Mont. Code Ann. § 49-3-205, which is also covered by the Montana Human Rights Act. Therefore, since Mr. Amsden alleged discriminatory practices covered by the Act, the Hearing Officer lacked subject matter jurisdiction to hear the discrimination claims.

II. Did the Hearing Officer correctly interpret Montana law by concluding Mr. Amsden was not entitled to a fair hearing due to the lack of an “adverse action” or “contested case”?

The Hearing Officer determined Mr. Amsden was not entitled to a hearing because there was no “contested case” or “adverse action” due to the claim being barred by res judicata. That is, Mr. Amsden was not entitled to another fair hearing since he did

not raise a new claim. While, again, Mr. Amsden's arguments rebutting the decision are not clear, he apparently argues this was error.

A hearing may be dismissed when "the contested action is not an adverse action." Admin. R. Mont. 37.5.313(f). An adverse action is defined as "any determination made by the department with respect to an applicant's or consumer's concerning eligibility for, placement into a particular category for purposes of order or selection, or termination from services, or with respect to the selection and delivery of services delivered to a consumer under this chapter." Admin. R. Mont. 37.30.1401(2).

Analogous to the "adverse action" language just quoted, the Montana Administrative Procedures Act provides that a person with a "contested case" is entitled to a hearing. Mont. Code Ann. § 2-4-102(4). "Contested case" means a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. *Id.* Therefore, as a threshold matter, an aggrieved person has to identify a legal right to contest an agency's decision; absent such a right, a hearing officer has no jurisdiction to hear a matter. *Roos*, at ¶ 10.

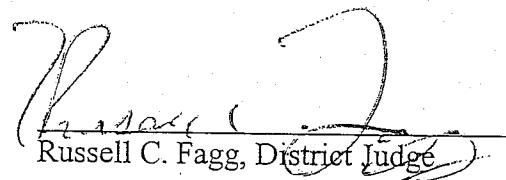
Accordingly, if Mr. Amsden's claim is precluded by res judicata, then there is no legal right to contest the agency's decision and no right to a hearing. A party is barred from re-litigating a matter that the party has already had an opportunity to litigate.

Glickman v. Whitefish Credit Union Association, 287 Mont. 161, 166, 951 P.2d 1388, 1391 (1998). The doctrine of res judicata applies when four criteria are met: the parties are the same; the subject matter of the claim is the same; the issues are the same and

relate to the same subject matter; and the capacities of the persons are the same in reference to the subject matter and the issues. *Id.*

Here, the Hearing Officer found that all four of these elements were satisfied as between this appeal and this Court's previous decision in Cause No. DV 02-287. The Hearing Officer's interpretation of law was correct. The current appeal involves the same parties in their same capacities, and the same subject matter and issues. Thus, the Department correctly found Mr. Amsden's appeal to be barred under the doctrine of res judicata. And since the claim was precluded as a matter of law, the Hearing Officer correctly determined there was no contested case or adverse action, and he was entitled to dismiss the claim without a hearing. The Department's dismissal is affirmed.

Dated this 12th day of October 2004.



Russell C. Fagg, District Judge

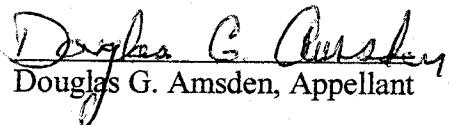
cc: Douglas Amsden
Cary Lund

CERTIFICATION OF SERVICES

I hereby certify that I served true and accurate copies of the foregoing DOUG AMSDEN AND REQUEST FOR COURT APPOINTED PRO BONO COUNSEL IN CIVIL ACTION, case # CV-06-03-BLG-RFC, by depositing said copies into the U.S. Postal Service, postage paid, addressed to the following:

Cary Lund
Office of Legal Affairs
P.O. Box 4210
111 Sanders
Helena, MT 59604-4210

Dated this 1st day of February, 2006.


Douglas G. Amsden, Appellant

10-4-06

Honorable Brian Schweitzer
Governor of Montana
P.O. Box 200801
Helena, MT 59620

Re: business interests

Dear Governor Schweitzer:

I ask that your office transfer this letter to you with the purpose to inform you of my call for assistance to your Governor's office, 10-3-06.

Governor, I left an important message with a receptionist in your office yesterday to complain that my rights in receiving individualized service with the Montana Vocational Rehabilitation program application were lost in translation. I believe this tax-funded program is liable for under serving the work within a business plan that I produced for disabled individual employment assistance. Meantime, re-assigned agents' now inform me that I must reproduce the information with strategies to receive government economic and technology market assistance. Besides my having a local, state and national program endorsement for this market assistance, Governor. This public service offered is defamatory and counter to the rehabilitation of my head trauma and TBI status.

Governor Schweitzer, I ask your immediate help in response to correct this civil injustice in rehabilitation policy procedures. Please amend a compliance rule in society's civil rights for individual industry expression and future economic investment on my behalf.

Thank you.

Sincerely yours,
Doug Amsden
Doug Amsden
769 Fallow Ln., #322
Billings, MT 59102

cc: Michael Lange
Bob Maxson

Jeff Essman
Mark Noennig
Regie Romain

10-12-06

Honorable Brian Schweitzer
Governor of Montana
P.O. Box 200801
Helena, MT 59620

Re: energy

Dear Governor Schweitzer:

I write this letter to you upon calling your Governor's office for energy assistance, 10-10-06.

Therefore, Governor, it is within my having earlier asked you to amend a rule on compliance in disabled-friendly "business interests" that I now ask for your Governor's office assistance to fund a business license on commercial market research and development in serving the disabled client's request for employment placement assistance with the technical information from professional aptitude tests.

Governor Schweitzer, I am certified and share this information with you on the experience of program barriers in discrimination because similar disabled applicants' economic, health, and welfare poverty status is due in principle to the Montana Vocational Rehabilitation government entity non-assessment of this credible information on individual rights.

Please keep me informed on the status of this request for your Governor's office timely market assistance on my behalf.

Thank you.

cc: Michael Lange
Bob Maxson
Jeff Ersman
Mark Neenning
etc.

Sincerely yours,
Doug Amsden
Doug Amsden
769 Fallow Ln., #322
Billings, MT 59102